



General Assembly

February Session, 2010

***Raised Bill No. 5270***

LCO No. 570

\*00570\_\_\_\_\_BA\_\*

Referred to Committee on Banks

Introduced by:  
(BA)

***AN ACT CONCERNING FORECLOSURE MEDIATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 49-31n of the 2010 supplement to the general  
2       statutes is repealed and the following is substituted in lieu thereof  
3       *(Effective from passage):*

4       (a) Prior to July 1, 2010: (1) Any action for the foreclosure of a  
5       mortgage on residential real property with a return date during the  
6       period from July 1, 2008, to June 30, 2009, inclusive, shall be subject to  
7       the provisions of subsection (b) of this section, and (2) any action for  
8       the foreclosure of a mortgage on residential real property with a return  
9       date during the period from July 1, 2009, to June 30, [2010] 2011,  
10      inclusive, shall be subject to the provisions of subsection (c) of this  
11      section.

12      (b) (1) For any action for the foreclosure of a mortgage on residential  
13      real property with a return date during the period from July 1, 2008, to  
14      June 30, 2009, inclusive, the mediation period under the foreclosure  
15      mediation program established in section 49-31m shall commence  
16      when the court sends notice to each appearing party that a foreclosure

17 mediation request form has been submitted by a mortgagor to the  
18 court, which notice shall be sent not later than three business days after  
19 the court receives a completed foreclosure mediation request form. The  
20 mediation period shall conclude not more than sixty days after the  
21 return day for the foreclosure action, except that the court may, in its  
22 discretion, for good cause shown, (A) extend, by not more than thirty  
23 days, or shorten the mediation period on its own motion or upon  
24 motion of any party, or (B) extend by not more than thirty days the  
25 mediation period upon written request of the mediator.

26 (2) The first mediation session shall be held not later than fifteen  
27 business days after the court sends notice to all parties that a  
28 foreclosure mediation request form has been submitted to the court.  
29 The mortgagor and mortgagee shall appear in person at each  
30 mediation session and shall have authority to agree to a proposed  
31 settlement, except that if the mortgagee is represented by counsel, the  
32 mortgagee's counsel may appear in lieu of the mortgagee to represent  
33 the mortgagee's interests at the mediation, provided such counsel has  
34 the authority to agree to a proposed settlement and the mortgagee is  
35 available during the mediation session by telephone or electronic  
36 means. The court shall not award attorney's fees to any mortgagee for  
37 time spent in a mediation session if the court finds that such  
38 mortgagee has failed to comply with this subdivision, unless the court  
39 finds reasonable cause for such failure.

40 (3) Not later than two days after the conclusion of the first  
41 mediation session, the mediator shall determine whether the parties  
42 will benefit from further mediation. The mediator shall file with the  
43 court a report setting forth such determination and mail a copy of such  
44 report to each appearing party. If the mediator reports to the court that  
45 the parties will not benefit from further mediation, the mediation  
46 period shall terminate automatically. If the mediator reports to the  
47 court after the first mediation session that the parties may benefit from  
48 further mediation, the mediation period shall continue.

49 (4) If the mediator has submitted a report to the court that the  
50 parties may benefit from further mediation pursuant to subdivision (3)  
51 of this subsection, not more than two days after the conclusion of the  
52 mediation, but no later than the termination of the mediation period  
53 set forth in subdivision (1) of this subsection, the mediator shall file a  
54 report with the court describing the proceedings and specifying the  
55 issues resolved, if any, and any issues not resolved pursuant to the  
56 mediation. The filing of the report shall terminate the mediation period  
57 automatically. If certain issues have not been resolved pursuant to the  
58 mediation, the mediator may refer the mortgagor to any appropriate  
59 community-based services that are available in the judicial district, but  
60 any such referral shall not cause a delay in the mediation process.

61 (5) The Chief Court Administrator shall establish policies and  
62 procedures to implement this subsection. Such policies and procedures  
63 shall, at a minimum, provide that the mediator shall advise the  
64 mortgagor at the first mediation session required by subdivision (2) of  
65 this subsection that: (A) Such mediation does not suspend the  
66 mortgagor's obligation to respond to the foreclosure action; and (B) a  
67 judgment of strict foreclosure or foreclosure by sale may cause the  
68 mortgagor to lose the residential real property to foreclosure.

69 (6) In no event shall any determination issued by a mediator under  
70 this program form the basis of an appeal of any foreclosure judgment.

71 (7) Foreclosure mediation request forms shall not be accepted by the  
72 court on or after July 1, [2010] 2011, and the foreclosure mediation  
73 program shall terminate when all mediation has concluded with  
74 respect to any applications submitted to the court prior to July 1, [2010]  
75 2011.

76 (8) At any time during the mediation period, the mediator may refer  
77 the mortgagor to the mortgage assistance programs, except that any  
78 such referral shall not prevent a mortgagee from proceeding to  
79 judgment when the conditions specified in subdivision (6) of  
80 subsection (b) of section 49-31l have been satisfied.

81 (c) (1) For any action for the foreclosure of a mortgage on residential  
82 real property with a return date during the period from July 1, 2009, to  
83 June 30, [2010] 2011, inclusive, the mediation period under the  
84 foreclosure mediation program established in section 49-31m shall  
85 commence when the court sends notice to each appearing party  
86 scheduling the first foreclosure mediation session. The mediation  
87 period shall conclude not later than the date sixty days after the return  
88 date for the foreclosure action, except that the court may, in its  
89 discretion, for good cause shown, (A) extend, by not more than thirty  
90 days, or shorten the mediation period on its own motion or upon  
91 motion of any party, or (B) extend by not more than thirty days the  
92 mediation period upon written request of the mediator.

93 (2) The first mediation session shall be held not later than fifteen  
94 business days after the court sends notice to each appearing party in  
95 accordance with subdivision (4) of subsection (c) of section 49-31l. The  
96 mortgagor and mortgagee shall appear in person at each mediation  
97 session and shall have authority to agree to a proposed settlement,  
98 except that if the mortgagee is represented by counsel, the mortgagee's  
99 counsel may appear in lieu of the mortgagee to represent the  
100 mortgagee's interests at the mediation, provided such counsel has the  
101 authority to agree to a proposed settlement and the mortgagee is  
102 available during the mediation session by telephone or electronic  
103 means. The court shall not award attorney's fees to any mortgagee for  
104 time spent in a mediation session if the court finds that such  
105 mortgagee has failed to comply with this subdivision, unless the court  
106 finds reasonable cause for such failure.

107 (3) Not later than two days after the conclusion of the first  
108 mediation session, the mediator shall determine whether the parties  
109 will benefit from further mediation. The mediator shall file with the  
110 court a report setting forth such determination and mail a copy of such  
111 report to each appearing party. If the mediator reports to the court that  
112 the parties will not benefit from further mediation, the mediation  
113 period shall terminate automatically. If the mediator reports to the

114 court after the first mediation session that the parties may benefit from  
115 further mediation, the mediation period shall continue.

116 (4) If the mediator has submitted a report to the court that the  
117 parties may benefit from further mediation pursuant to subdivision (3)  
118 of this subsection, not more than two days after the conclusion of the  
119 mediation, but no later than the termination of the mediation period  
120 set forth in subdivision (1) of this subsection, the mediator shall file a  
121 report with the court describing the proceedings and specifying the  
122 issues resolved, if any, and any issues not resolved pursuant to the  
123 mediation. The filing of the report shall terminate the mediation period  
124 automatically. If certain issues have not been resolved pursuant to the  
125 mediation, the mediator may refer the mortgagor to any appropriate  
126 community-based services that are available in the judicial district, but  
127 any such referral shall not cause a delay in the mediation process.

128 (5) The Chief Court Administrator shall establish policies and  
129 procedures to implement this subsection. Such policies and procedures  
130 shall, at a minimum, provide that the mediator shall advise the  
131 mortgagor at the first mediation session required by subdivision (2) of  
132 this subsection that: (A) Such mediation does not suspend the  
133 mortgagor's obligation to respond to the foreclosure action; and (B) a  
134 judgment of strict foreclosure or foreclosure by sale may cause the  
135 mortgagor to lose the residential real property to foreclosure.

136 (6) In no event shall any determination issued by a mediator under  
137 this program form the basis of an appeal of any foreclosure judgment.

138 (7) The foreclosure mediation program shall terminate when all  
139 mediation has concluded with respect to any foreclosure action with a  
140 return date during the period from July 1, 2009, to June 30, [2010] 2011,  
141 inclusive.

142 (8) At any time during the mediation period, the mediator may refer  
143 the mortgagor to the mortgage assistance programs, except that any  
144 such referral shall not prevent a mortgagee from proceeding to

145 judgment when the conditions specified in subdivision (6) of  
146 subsection (c) of section 49-31l have been satisfied.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	49-31n
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***Statement of Purpose:***

To extend the date of the termination of the foreclosure mediation program.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*